Telecommunications Orders - Issued 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE INQUIRY OF WHETHER TO RECLASSIFY U S WEST COMMUNICATIONS, INC.'S INTRALATA TOLL AND WIDE-AREA TELEPHONE SERVICES ORDER
RECLASSIFYING
U S WEST'S
INTRALATA
TOLL AND
WIDE-AREA
TELEPHONE
SERVICES AS
FULLY
COMPETITIVE;
ORDER
APPROVING
SETTLEMENT
AGREEMENT

TC99-099

A August 17, 1999, meeting, the Public Utilities Commission (Commission) voted to direct the Executive Director to open a docket to consider whether to have intraLATA toll and wide-area telephone services for U S WEST Communications, Inc. (U S WEST) reclassified from emerging competitive to fully competitive (Commissioner Schoenfelder, dissenting). Pursuant to SDCL 49-31-3.2, when determining how a telecommunications service is to be classified, the Commission shall consider the following:

- (1) The number and size of alternative providers of the service and the affiliation to other providers;
- (2) The extent to which services are available from alternative providers in the relevant market;
- (3) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions of service;
- (4) The market share, the ability of the market to hold prices close to the cost, and other economic measures of market power; and
- (5) The impact on universal service.

The Commission has jurisdiction over this matter pursuant to SDCL 49-31-3.2 and 49-31-3.4. Pursuant to SDCL 49-31-3.4, in any proceeding to reclassify a telecommunications service, the telecommunications company providing the service has the burden of proving that the classification is appropriate if the proceeding is commenced by the Commission on its own motion. On October 8, 1999, Sprint Corporation (Sprint) and Telecommunications Resellers Association (TRA) filed Petitions for Leave to Intervene. A November 1, 1999, meeting, the Commission granted the requests for intervention. U S WEST filed testimony on October 22, 1999. The hearing was scheduled for November 22, 1999.

On November 3, 1999, the Commission received a Stipulation and Settlement Agreement entered into between U S WEST and Commission Staff. In the Stipulation and Settlement Agreement, U S WEST and Commission Staff agreed that U S WEST's intraLATA toll and wide-area telephone services are fully competitive and should be reclassified from emerging competitive to fully competitive. U S WEST and Commission Staff requested approval of the Stipulation and Settlement Agreement. On November 8, 1999, the Commission received a letter from Sprint stating that with the inclusion of paragraph III(J), which notes U S WEST's continued imputation of access charges, Sprint was satisfied with the result. TRA did not respond until after the Commission approved the

Stipulation and Agreement. TRA was given the opportunity to participate in the settlement negotiations and was sent a copy of the Stipulation and Settlement Agreement. Although TRA stated that it did not have sufficient notice of the Commission meeting, TRA was informed the morning of November 15, 1999, that the Commission would consider whether to approve the Stipulation and Settlement Agreement that afternoon. TRA chose not to participate in the meeting.

A November 15, 1999, meeting, the Commission considered the Stipulation and Settlement Agreement. The Commission voted to approve the Stipulation and Settlement Agreement. After consideration of the criteria listed in SDCL 49-31-3.2 and based upon the information filed in this docket, the Commission finds that U S WEST's intraLATA toll and wide-area telephone services are fully competitive and shall be reclassified from emerging competitive to fully competitive. The Commission finds the reclassification is in the public interest because there are numerous alternative providers of intraLATA toll and wide-area telephone services in South Dakota. Further, the Commission notes that since the implementation of intraLATA dialing parity all South Dakota customers now have the ability to preselect a specific carrier for their intraLATA toll calls by dialing "1" plus the number.

It is therefore

ORDERED, that U S WEST's intraLATA toll and wide-area telephone services shall be reclassified as fully competitive; and it is

FURTHER ORDERED, that the Stipulation and Settlement Agreement shall be approved and shall be incorporated by reference into this Order the same as if it had been set forth in its entirety herein.

Dated at Pierre, South Dakota, this 8th day of December, 1999.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document as been served today upon all parties of record in this locket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.
3y:
Oate:
(OFFICIAL SEAL)
BY ORDER OF THE COMMISSION:
JAMES A. BURG, Chairman
PAM NELSON, Commissioner
LASKA SCHOENFELDER, Commissioner

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